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Chief Executive Officer

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October 8, 2021

Via CDX and Email

Evan Belser
Acting Director, Air Enforcement Division
U.S. Environmental Protection Agency
MC 2242A
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: *United States v. Orion Engineered Carbons, LLC*, Consent Decree (Case No. 6:17-cv-01660) – Notice of Intent to Assert Claim of Force Majeure – Eighteenth Supplemental Update

Dear Mr. Belser:

Orion Engineered Carbons, LLC (“Orion”) provides this letter in response to EPA’s letters dated April 24, 2020, October 21, 2020, January 25, 2021, and March 18, 2021. EPA’s April 24, 2020 letter requested updates regarding Orion’s March 23, 2020 notice of intent to assert force majeure. EPA’s April 24, 2020 letter requested an initial response within four weeks and supplemental updates every four weeks thereafter. Orion provided its initial response on May 21, 2020 (the “Initial Response”). This letter is Orion’s eighteenth supplemental update.

We ask that you treat the redacted portions in the public version of this submittal as confidential business information (CBI) pursuant to 40 C.F.R. Part 2. Orion’s updated responses to the questions in EPA’s April 24, 2020 letter follow.

Ivanhoe

1. *Clarify the meaning of the term, “pollution control projects required by the CD at [] Ivanhoe.”*

No change since Initial Response.

2. *Do the PM Early Warning Systems, baghouses and incineration devices necessary to achieve MACT compliance remain operational?*

No change since Initial Response.

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3. *Are any of Orion's [REDACTED] employees working onsite, and if so, how many?*

[REDACTED]

[REDACTED]

[REDACTED]

4. *What activities are the employees performing? Are they making carbon black?*

[REDACTED]

[REDACTED]

5. *Provide any updates received from Defendant's contractors related to COVID-19.*

See response to Question 3.

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6. *Provide any updates, orders, or directives from state and local officials related to COVID-19.*

The following is a brief summary of orders affecting Orion issued since the last supplemental update:

Louisiana

September 28: **181 JBE 2021.**¹ Governor Edwards issued a proclamation declaring that the statewide public health emergency due to COVID-19 in Louisiana “continue[s] to exist.” The proclamation emphasized that although states hospitalizations and deaths are decreasing, they remain at “unacceptably high” levels. Accordingly, the Governor proclaimed that “additional mitigation measures remain necessary to slow new infections and to decrease pressure on hospitals and health care practitioners to maintain appropriate standards of care and preserve hospital capacity.” The proclamation requires “all individuals” to wear face coverings when indoors, except in their private residences and in a few other narrow circumstances. The proclamation reserves authorities to local governments to issue more restrictive measures. The declaration also permits private businesses to issue more restrictive COVID-19 mitigation measures on their properties. The proclamation also directs all state departments and agencies to cooperate in actions that Louisiana takes “in response to the effects of this event.”

182 JBE 2021.² The same day, Governor Edwards issued a proclamation renewing several provisions of a prior proclamation (167 JBE 2021) regarding COVID-19, including with respect to certain federal hours limits for operators of commercial vehicles. Additionally, the declaration directs all state departments to cooperate in actions that Louisiana takes “in response to the effects of this event.”

¹ State of Louisiana, Proclamation No. 181 JBE 2021 (Sept. 28, 2021), *available at* <https://gov.louisiana.gov/assets/Proclamations/2021/Mask-Mandate-proclamation.pdf>.

² State of Louisiana, Proclamation No. 182 JBE 2021 (Aug. 31, 2021), *available at* <https://gov.louisiana.gov/assets/Proclamations/2021/182-JBE-2021-State-of-Emergency-COVID-19-Extension-to-Oct-27.pdf>.

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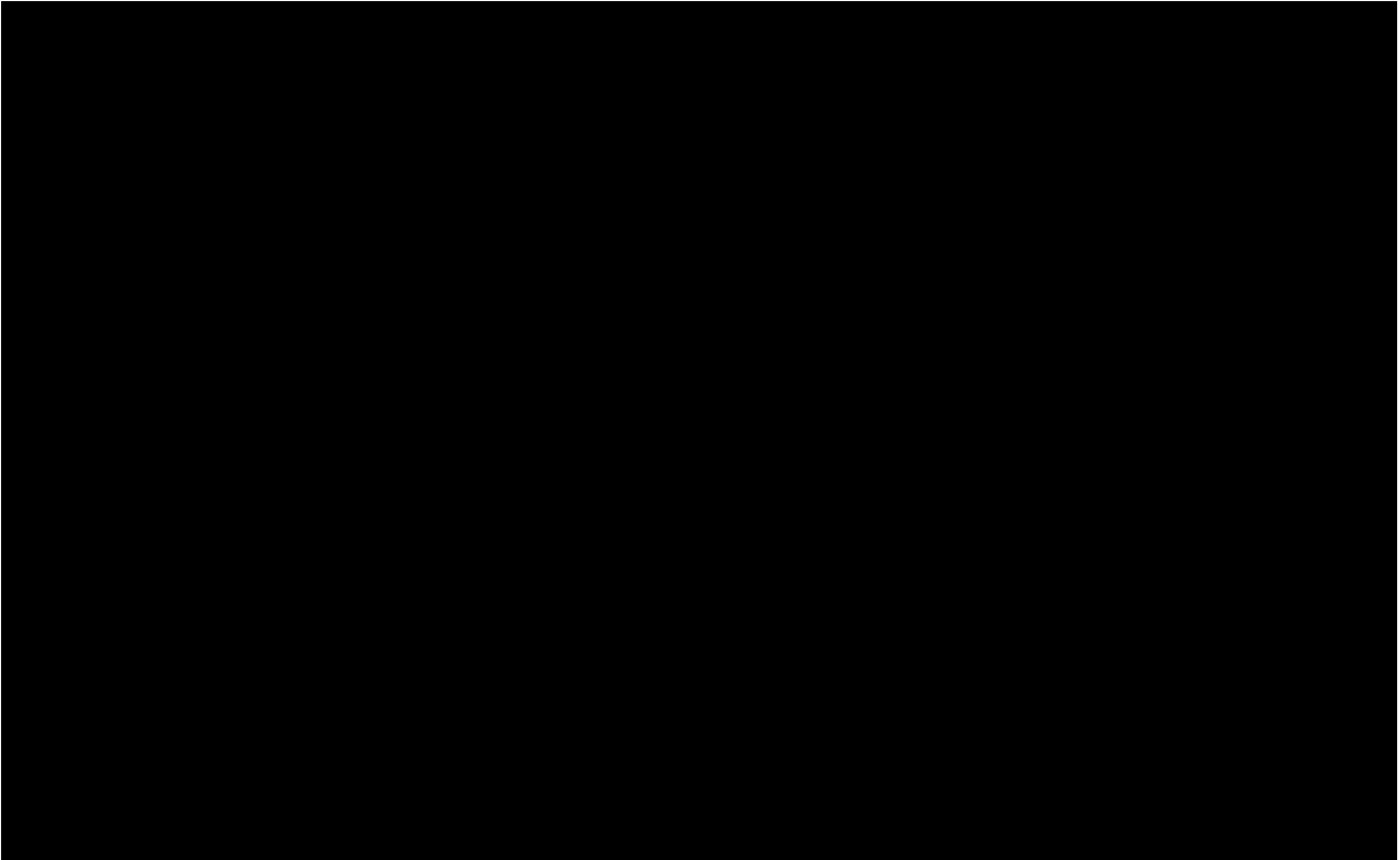
7. *Provide a detailed construction schedule, reflective of the anticipated schedule as of March 1, 2020, (broken out by month), that specifies the work being performed, the number of contractors expected to be on site (noting the name of the company), the anticipated date of arrival of major parts, and any other relevant information.*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



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Conclusion

Orion and relevant staff for Plaintiffs are working collaboratively to secure a modification to the consent decree that reflects the force majeure events of the COVID-19 pandemic (including as exacerbated by the Delta variant) and Hurricane Ida. We look forward to the lodging of that amendment with the court.

Orion remains committed to working with EPA to fulfill the requirements of the Consent Decree while protecting the health and safety of Orion's employees and contractors. Orion will provide its next update on or before November 5, 2021.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Painter", is positioned above the typed name.

Corning Painter
Chief Executive Officer
Orion Engineered Carbons, GmbH

cc: Kellie Ortega, U.S. Environmental Protection Agency
David Friedland, Beveridge & Diamond, P.C.
Jason Dunn, U.S. Department of Justice
Katherine Abend, U.S. Department of Justice
Celena Cage, Louisiana Department of Environmental Quality
Brandon Williams, Louisiana Department of Environmental Quality
Dwana King, Louisiana Department of Environmental Quality